

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JOHN PATRICK UNIVERSITY OF
HEALTH AND APPLIED SCIENCE,
INC.

Plaintiff

vs.

CHARLES BURNS, IN HIS
OFFICIAL CAPACITY AS
DIRECTOR OF THE NEW YORK
STATE DEPARTMENT OF HEALTH,
BUREAU OF ENVIRONMENTAL
RADIATION PROTECTION,
RADIOACTIVE MATERIALS
SECTION; TREVOR THAYER IN
HIS OFFICIAL CAPACITY AS HEAD
OF THE NEW YORK STATE
DEPARTMENT OF HEALTH,
RADIATION EQUIPMENT AND
RADIOLOGIC TECHNOLOGY
SECTION; RYAN DEOLDE, IN HIS
OFFICIAL CAPACITY AS
DIRECTOR OF THE NEW YORK
STATE DEPARTMENT OF HEALTH
ADMINISTRATIVE,
MANAGEMENT SERVICES GROUP
WITHIN THE OFFICE OF PRIMARY
CARE AND HEALTH SYSTEMS
MANAGEMENT; MEI ZHOU, IN
HER OFFICIAL CAPACITY AS
PROFESSIONAL EDUCATION
DIRECTOR IN THE OFFICE OF THE
PROFESSIONS OF THE NEW YORK
STATE EDUCATION DEPARTMENT

Defendants

CIVIL ACTION NO. _____

MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

**PLAINTIFF’S EX PARTE MOTION FOR ENTRY OF A TEMPORARY
RESTRAINING ORDER AND FOR PRELIMINARY INJUNCTION**

Plaintiff John Patrick University, Inc. (“JPU” or “Plaintiff” or the “University”) and hereby requests (1) entry of an *ex parte* temporary restraining order, including an injunction against Defendants in their official capacities, and anyone working with them or on their behalf, from 1) refusing to accept training certifications from JPU, 2) from prohibiting JPU students from doing their clinical rotations in New York health care facilities, 3) from barring JPU from placing clinical students in the state, 3) and from barring JPU students from becoming licensed Radiology Technicians in New York on the basis that JPU is not JRCERT accredited. Plaintiff seeks this extraordinary relief to safeguard its students, the future of its Radiologic Technology program, the future of the institution itself, and to prevent further ongoing violations of Plaintiff’s constitutional rights.

Additionally, Plaintiff requests the Court waive the requirement to post an injunction bond in this instance. The Seventh Circuit has instructed that district courts may “waive the requirement of an injunction bond” if they are “satisfied that there’s no danger that the opposing party will incur any damages from the injunction.” *Habitat Educ. Ctr. v. U.S. Forest Serv.*, 607 F.3d 453, 458 (7th Cir. 2010); *see also Wayne Chem., Inc. v. Columbus Agency Serv. Corp.*, 567 F.2d 692, 701 (7th Cir. 1977) (recognizing that “[u]nder appropriate circumstances bond may be excused, notwithstanding the literal language of Rule 65(c)”).

Here, a preliminary injunction here will not expose the Defendants to damages or risk of economic harm and because the denial or acceptance of licensing applications does

not pose an economic harm and thus, “[t]here is no reason to require a bond” in this case. *Habitat Educ. Ctr.*, 607 F.3d at 458; *see also Allen v. Bartholomew Cnty. Ct. Servs. Dep’t*, 185 F. Supp. 3d 1075, 1087 (S.D. Ind. 2016).

In support of this motion, a Memorandum of Law in Support and incorporated declarations of the Plaintiff and are filed concurrently with this Motion, with attached exhibits, along with a Rule 65(b) certification.

Respectfully submitted,

/s/ Carlos A. Ortiz

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(*Pro Hac Vice Motion forthcoming*)

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CERTIFICATE OF SERVICE

I certify that on this the 23rd day of June, I electronically transmitted the foregoing document to via CM/ECF and to the following individuals via email:

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/s/ Carlos A. Ortiz